

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

ANDREW C. STRICK,	)	
	)	Case No. C06-5221-JPD
Petitioner,	)	
	)	
v.	)	
	)	
UNITED STATES OF AMERICA,	)	SHOW CAUSE ORDER
	)	
Respondent.	)	

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On March 15, 2006, petitioner pleaded guilty to trespassing on federal land and was sentenced to pay a \$60 fine. Dkt. No. 1. This matter comes before the Court on petitioner's pro se 28 U.S.C. § 2255 motion to vacate, set aside, or correct this sentence. *Id.* Petitioner argues that, although he pleaded guilty, he did not know that he was trespassing because he did not see posted signs. *Id.* Having carefully reviewed the motion and balance of the Court record, the Court ORDERS as follows:

(1) Petitioner is directed to SHOW CAUSE as to why this petition should not be denied. 28 U.S.C. § 2255 provides that

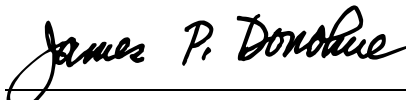
*A prisoner in custody* under sentence of a court established by Act of Congress *claiming the right to be released* upon the ground that the sentence was imposed in violation of the Constitution or laws of the United States, or that the court was without jurisdiction to impose such sentence, or that the sentence was in excess of the maximum authorized by law, or is otherwise subject to collateral attack, may move the court which imposed the sentence to vacate, set aside or correct the sentence.

(emphasis added). Hence, pursuant to the plain terms of the statute, a petitioner must claim that he has the right to be released from custody in order for his motion to be properly

01 cognizable under § 2255. *United States v. Kramer*, 195 F.3d 1129, 1129-30 (9th Cir. 1999).  
02 “Claims for other types of relief . . . cannot be brought in a § 2255 motion[.]” *United States v.*  
03 *Thiele*, 314 F.3d 399, 400 (9th Cir. 2002). Every other circuit court to have considered this  
04 question has arrived at the same conclusion. *Kramer*, 195 F.3d at 1130 (collecting cases).

05 Here, petitioner’s motion does not seek release from custody and does not appear to  
06 raise a constitutional challenge to his sentence. Rather, it appears to only seek to have the \$60  
07 fine vacated. Dkt. No. 1. This is not cognizable in a 28 U.S.C. § 2255 motion. Petitioner is  
08 directed to advise the Court no later than June 5, 2006, whether his 2006 sentence included a  
09 period of incarceration or any other restraints on his liberty. Additionally, petitioner shall  
10 indicate whether he is raising a federal constitutional challenge to the sentence. If petitioner  
11 fails to respond adequately within the above-described time period, the Court may deny the  
12 motion.

13 DATED this 19th day of May, 2006.

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16 JAMES P. DONOHUE  
17 United States Magistrate Judge  
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